

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Robert Draper

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11 CONSUMER ADVOCACY GROUP, INC.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

11 CONSUMER ADVOCACY GROUP, INC.,
12 in the public interest,

13 Plaintiff,

14 v.

15 GENERAL DISCOUNT CORPORATION, a
16 Massachusetts Corporation;
17 GENERAL DISCOUNT, LLC, a
18 Massachusetts Limited Liability Company;
19 GENERAL DISCOUNT NO. 1, INC., a
20 California Corporation;
21 GENERAL DISCOUNT #4, a Business
22 Entity Form Unknown;
23 FINE DISCOUNT NO. 1, INC., a California
24 Corporation;
25 and DOES 1-60,

26 Defendants.

CASE NO.

COMPLAINT FOR PENALTY AND
INJUNCTION

Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement
Act of 1986 (*Health & Safety Code*, §
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$25,000)

27 Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges causes of action against
28 defendants GENERAL DISCOUNT CORPORATION, GENERAL DISCOUNT, LLC,
GENERAL DISCOUNT NO. 1, INC., GENERAL DISCOUNT #4, FINE DISCOUNT NO. 1,
INC., and DOES 1-60 as follows:

THE PARTIES

- 1
2 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
3 organization qualified to do business in the State of California. CAG is a person within
4 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting
5 as a private attorney general, brings this action in the public interest as defined under
6 Health and Safety Code section 25249.7, subdivision (d).
- 7 2. Defendant GENERAL DISCOUNT CORPORATION (“GENERAL DISCOUNT
8 CORP”) is a Massachusetts Corporation, and doing business in the State of California at
9 all relevant times herein.
- 10 3. Defendant GENERAL DISCOUNT, LLC (“GENERAL DISCOUNT”) is a
11 Massachusetts Limited Liability Company, and doing business in the State of California
12 at all relevant times herein.
- 13 4. Defendant GENERAL DISCOUNT NO. 1, INC. (“GENERAL DISCOUNT 1”) is a
14 California Corporation, qualified to do business in California, and doing business in the
15 State of California at all relevant times herein.
- 16 5. Defendant GENERAL DISCOUNT #4 (“GENERAL DISCOUNT 4”) is a business entity
17 form unknown, and doing business in the State of California at all relevant times herein.
- 18 6. Defendant FINE DISCOUNT NO. 1, INC. (“FINE DISCOUNT”) is a California
19 Corporation, qualified to do business in California, and doing business in the State of
20 California at all relevant times herein.
- 21 7. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-60,
22 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
23 complaint to allege their true names and capacities when ascertained. Plaintiff is
24 informed, believes, and thereon alleges that each fictitiously named defendant is
25 responsible in some manner for the occurrences herein alleged and the damages caused
26 thereby.

1 8. At all times mentioned herein, the term “Defendants” includes GENERAL DISCOUNT
2 CORP, GENERAL DISCOUNT, GENERAL DISCOUNT 1, GENERAL DISCOUNT 4,
3 FINE DISCOUNT, and DOES 1-60.

4 9. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
5 times mentioned herein have conducted business within the State of California.

6 10. Upon information and belief, at all times relevant to this action, each of the Defendants,
7 including DOES 1-60, was an agent, servant, or employee of each of the other
8 Defendants. In conducting the activities alleged in this Complaint, each of the
9 Defendants was acting within the course and scope of this agency, service, or
10 employment, and was acting with the consent, permission, and authorization of each of
11 the other Defendants. All actions of each of the Defendants alleged in this Complaint
12 were ratified and approved by every other Defendant or their officers or managing agents.
13 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged
14 wrongful conduct of each of the other Defendants.

15 11. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
16 Defendants was a person doing business within the meaning of Health and Safety Code
17 section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
18 employees at all relevant times.

19 **JURISDICTION**

20 12. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
21 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
22 those given by statute to other trial courts. This Court has jurisdiction over this action
23 pursuant to Health and Safety Code section 25249.7, which allows enforcement of
24 violations of Proposition 65 in any Court of competent jurisdiction.

25 13. This Court has jurisdiction over Defendants named herein because Defendants either
26 reside or are located in this State or are foreign corporations authorized to do business in
27 California, are registered with the California Secretary of State, or who do sufficient
28

1 business in California, have sufficient minimum contacts with California, or otherwise
2 intentionally avail themselves of the markets within California through their manufacture,
3 distribution, promotion, marketing, or sale of their products within California to render
4 the exercise of jurisdiction by the California courts permissible under traditional notions
5 of fair play and substantial justice.

6 14. Venue is proper in the County of Los Angeles because one or more of the instances of
7 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
8 because Defendants conducted, and continue to conduct, business in the County of Los
9 Angeles with respect to the consumer product that is the subject of this action.

10 **BACKGROUND AND PRELIMINARY FACTS**

11 15. In 1986, California voters approved an initiative to address growing concerns about
12 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
13 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
14 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
15 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code sections
16 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
17 from contamination, to allow consumers to make informed choices about the products
18 they buy, and to enable persons to protect themselves from toxic chemicals as they see
19 fit.

20 16. Proposition 65 requires the Governor of California to publish a list of chemicals known to
21 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*
22 § 25249.8. The list, which the Governor updates at least once a year, contains over 700
23 chemicals and chemical families. Proposition 65 imposes warning requirements and
24 other controls that apply to Proposition 65-listed chemicals.

25 17. All businesses with ten (10) or more employees that operate or sell products in California
26 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
27 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
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1 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
2 reasonable” warnings before exposing a person, knowingly and intentionally, to a
3 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

4 18. Proposition 65 provides that any person "violating or threatening to violate" the statute
5 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.

6 "Threaten to violate" means "to create a condition in which there is a substantial
7 probability that a violation will occur." *Health & Safety Code* § 25249.11(e).

8 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
9 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

10 19. Plaintiff identified certain practices of manufacturers and distributors of exposing,
11 knowingly and intentionally, persons in California to the Proposition 65-listed chemicals
12 to products without first providing clear and reasonable warnings of such to the exposed
13 persons prior to the time of exposure. Plaintiff later discerned that Defendants engaged
14 in such practice.

15 20. On January 1, 1988, the Governor of California added Di(2-ethylhexyl)phthalate
16 (“DEHP”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.
17 27, § 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
18 twenty (20) months after addition of DEHP to the list of chemicals known to the State to
19 cause cancer, DEHP became fully subject to Proposition 65 warning requirements and
20 discharge prohibitions.

21 21. On October 24, 2003, the Governor of California added DEHP to the list of chemicals
22 known to the State to cause reproductive and developmental toxicity (*Cal. Code Regs.* tit.
23 27, § 27001(c)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
24 twenty (20) months after addition of DEHP to the list of chemicals known to the State to
25 cause reproductive and developmental toxicity, DEHP became fully subject to
26 Proposition 65 warning requirements and discharge prohibitions.

1 22. On December 2, 2005, the Governor of California added Di-n-butyl Phthalate (“DBP”) to
2 the list of chemicals known to the State to cause reproductive and developmental toxicity
3 (*Cal. Code Regs.* tit. 27, § 27001(c)). Pursuant to Health and Safety Code sections
4 25249.9 and 25249.10, twenty (20) months after addition of DBP to the list of chemicals
5 known to the State to cause reproductive and developmental toxicity, DBP became fully
6 subject to Proposition 65 warning requirements and discharge prohibitions.

7 **SATISFACTION OF PRIOR NOTICE**

8 23. On or about November 30, 2018, Plaintiff gave notice of alleged violations of Health and
9 Safety Code section 25249.6, concerning consumer products exposures, subject to a
10 private action to GENERAL DISCOUNT 4 and to the California Attorney General,
11 County District Attorneys, and City Attorneys for each city containing a population of at
12 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
13 the product Bath Caddies.

14 24. On or about January 18, 2019, Plaintiff gave notice of alleged violations of Health and
15 Safety Code section 25249.6, concerning consumer products exposures, subject to a
16 private action to GENERAL DISCOUNT CORP, GENERAL DISCOUNT, GENERAL
17 DISCOUNT 4, and to the California Attorney General, County District Attorneys, and
18 City Attorneys for each city containing a population of at least 750,000 people in whose
19 jurisdictions the violations allegedly occurred, concerning the product Cosmetic Tool
20 Sets.

21 25. On or about February 4, 2019, Plaintiff gave notice of alleged violations of Health and
22 Safety Code section 25249.6, concerning consumer products exposures, subject to a
23 private action to GENERAL DISCOUNT CORP, GENERAL DISCOUNT, GENERAL
24 DISCOUNT 4, and to the California Attorney General, County District Attorneys, and
25 City Attorneys for each city containing a population of at least 750,000 people in whose
26 jurisdictions the violations allegedly occurred, concerning the product Soap Dishes.

1 26. On or about February 4, 2019, Plaintiff gave notice of alleged violations of Health and
2 Safety Code section 25249.6, concerning consumer products exposures, subject to a
3 private action to GENERAL DISCOUNT and to the California Attorney General, County
4 District Attorneys, and City Attorneys for each city containing a population of at least
5 750,000 people in whose jurisdictions the violations allegedly occurred, concerning the
6 product Chairs.

7 27. On or about March 21, 2019, Plaintiff gave notice of alleged violations of Health and
8 Safety Code section 25249.6, concerning consumer products exposures, subject to a
9 private action to FINE and to the California Attorney General, County District Attorneys,
10 and City Attorneys for each city containing a population of at least 750,000 people in
11 whose jurisdictions the violations allegedly occurred, concerning the product Sandals.

12 28. On or about April 11, 2019, Plaintiff gave notice of alleged violations of Health and
13 Safety Code section 25249.6, concerning consumer products exposures, subject to a
14 private action to GENERAL DISCOUNT 1, GENERAL DISCOUNT 4, FINE, and to the
15 California Attorney General, County District Attorneys, and City Attorneys for each city
16 containing a population of at least 750,000 people in whose jurisdictions the violations
17 allegedly occurred, concerning the product Eyeglasses Cases.

18 29. On or about April 12, 2019, Plaintiff gave notice of alleged violations of Health and
19 Safety Code section 25249.6, concerning consumer products exposures, subject to a
20 private action to GENERAL DISCOUNT 1 and to the California Attorney General,
21 County District Attorneys, and City Attorneys for each city containing a population of at
22 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
23 the product Cosmetic Tool Sets.

24 30. On or about April 12, 2019, Plaintiff gave notice of alleged violations of Health and
25 Safety Code section 25249.6, concerning consumer products exposures, subject to a
26 private action to GENERAL DISCOUNT 1 and to the California Attorney General,
27 County District Attorneys, and City Attorneys for each city containing a population of at
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1 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
2 the product Soap Dishes.

3 31. Before sending the notices of alleged violation, Plaintiff investigated the consumer
4 products involved, the likelihood that such products would cause users to suffer
5 significant exposures to DEHP or DBP, and the corporate structure of each of the
6 Defendants.

7 32. Plaintiff's notices of alleged violation included a Certificate of Merit executed by the
8 attorney for the noticing party, CAG. The Certificates of Merit stated that the attorney
9 for Plaintiff who executed the certificate had consulted with at least one person with
10 relevant and appropriate expertise who reviewed data regarding the exposures to DEHP
11 or DBP, the subject Proposition 65-listed chemicals of this action. Based on that
12 information, the attorney for Plaintiff who executed the Certificates of Merit believed
13 there was a reasonable and meritorious case for this private action. The attorney for
14 Plaintiff attached to the Certificates of Merit served on the Attorney General the
15 confidential factual information sufficient to establish the basis of the Certificates of
16 Merit.

17 33. Plaintiff's notices of alleged violations also included a Certificate of Service and a
18 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
19 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

20 34. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
21 gave notices of the alleged violations to GENERAL DISCOUNT CORP, GENERAL
22 DISCOUNT, GENERAL DISCOUNT 1, GENERAL DISCOUNT 4, FINE DISCOUNT,
23 and the public prosecutors referenced in Paragraphs 23-30.

24 35. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
25 any applicable district attorney or city attorney has commenced and is diligently
26 prosecuting an action against the Defendants.

1 **FIRST CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against GENERAL**
3 **DISCOUNT 4 and DOES 1-10 for Violations of Proposition 65, The Safe Drinking**
4 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et***
5 ***seq.*))**

6 **Bath Accessories**

- 7 36. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 35 of this Complaint as though fully set forth herein.
- 9 37. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Bath Caddy with Plastic Suction Cup, including but
11 not limited to “Home Basics”; “BATH CADDY W/SUCTION”; “6.5”X2.375”X2.5”
12 (16.5X6X6.5CM); “BC41364”; “HDS TRADING CORP. North Brunswick, NJ 08902”;
13 “Made in China”; “8 86466 41364 2” (“Bath Caddies”).
- 14 38. Bath Caddies contain DEHP.
- 15 39. Defendants knew or should have known that DEHP has been identified by the State of
16 California as a chemical known to cause cancer and reproductive toxicity and therefore
17 was subject to Proposition 65 warning requirements. Defendants were also informed of
18 the presence of DEHP in Bath Caddies within Plaintiff’s notice of alleged violations
19 further discussed above at Paragraph 23.
- 20 40. Plaintiff’s allegations regarding Bath Caddies concerns “[c]onsumer products
21 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
22 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
23 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
24 *25602(b)*. Bath Caddies are consumer products, and, as mentioned herein, exposures to
25 DEHP took place as a result of such normal and foreseeable use.
- 26 41. Plaintiff is informed, believes, and thereon alleges that between November 30, 2015 and
27 the present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Bath Caddies, which Defendants manufactured, distributed, or
sold as mentioned above, to DEHP, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.

2 Defendants have distributed and sold Bath Caddies in California. Defendants know and
3 intend that California consumers will use Bath Caddies, thereby exposing them to DEHP.
4 Defendants thereby violated Proposition 65.

5 42. The principal routes of exposure are through dermal contact and ingestion. Persons
6 sustain exposures by using, handling, or carrying Bath Caddies without wearing gloves or
7 by touching bare skin or mucous membranes with or without gloves after handling Bath
8 Caddies, as well as through direct and indirect hand to mouth contact, hand to mucous
9 membrane, trans-dermal absorption, or breathing in particulate matter emanating from the
10 Bath Caddies during use, as well as through environmental mediums that carry the DEHP
11 once contained within the Bath Caddies.

12 43. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
13 Proposition 65 as to Bath Caddies have been ongoing and continuous, as Defendants
14 engaged and continue to engage in conduct which violates Health and Safety Code
15 section 25249.6, including the manufacture, distribution, promotion, and sale of Bath
16 Caddies, so that a separate and distinct violation of Proposition 65 occurred each and
17 every time a person was exposed to DEHP by Bath Caddies as mentioned herein.

18 44. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
19 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
20 violations alleged herein will continue to occur into the future.

21 45. Based on the allegations herein, Defendants are liable for civil penalties of up to
22 \$2,500.00 per day per individual exposure to DEHP from Bath Caddies, pursuant to
23 Health and Safety Code section 25249.7(b).

24 46. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
25 filing this Complaint.

1 **SECOND CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against GENERAL**
3 **DISCOUNT CORP, GENERAL DISCOUNT, GENERAL DISCOUNT 1,**
4 **GENERAL DISCOUNT 4, and DOES 11-20 for Violations of Proposition 65, The**
5 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
6 **25249.5, *et seq.*))**

7 **Beauty Accessories**

8 47. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
9 reference paragraphs 1 through 46 of this complaint as though fully set forth herein.

10 48. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
11 distributor, promoter, or retailer of Cosmetic Tools Set, including but not limited to
12 “Revelé 5 Piece Eye and Face Care Set”; Donnamax® Inc. New York 11218 Made in
13 China. Item #1540 www. donnamax.com”; UPC “8 71290 00485 2” (“Cosmetic Tool
14 Sets”).

15 49. Cosmetic Tool Sets contain DEHP.

16 50. Defendants knew or should have known that DEHP has been identified by the State of
17 California as a chemical known to cause cancer and reproductive toxicity and therefore
18 was subject to Proposition 65 warning requirements. Defendants were also informed of
19 the presence of DEHP in Cosmetic Tool Sets within Plaintiff’s notice of alleged
20 violations further discussed above at Paragraphs 24 and 29.

21 51. Plaintiff’s allegations regarding Cosmetic Tool Sets concerns “[c]onsumer products
22 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
23 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
24 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
25 *25602(b)*. Cosmetic Tool Sets are consumer products, and, as mentioned herein,
26 exposures to DEHP took place as a result of such normal and foreseeable use.

27 52. Plaintiff is informed, believes, and thereon alleges that between January 18, 2016 and the
28 present, each of the Defendants knowingly and intentionally exposed California
consumers and users of Cosmetic Tool Sets, which Defendants manufactured, distributed,

1 or sold as mentioned above, to DEHP, without first providing any type of clear and
2 reasonable warning of such to the exposed persons before the time of exposure.

3 Defendants have distributed and sold Cosmetic Tool Sets in California. Defendants
4 know and intend that California consumers will use Cosmetic Tool Sets, thereby
5 exposing them to DEHP. Defendants thereby violated Proposition 65.

6 53. The principal routes of exposure are through dermal contact and ingestion. Persons
7 sustain exposures by using, handling, or carrying Cosmetic Tool Sets without wearing
8 gloves or by touching bare skin or mucous membranes with or without gloves after
9 handling Cosmetic Tool Sets, as well as through direct and indirect hand to mouth
10 contact, hand to mucous membrane, trans-dermal absorption, or breathing in particulate
11 matter emanating from the Cosmetic Tool Sets during use, as well as through
12 environmental mediums that carry the DEHP once contained within the Cosmetic Tool
13 Sets.

14 54. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
15 Proposition 65 as to Cosmetic Tool Sets have been ongoing and continuous, as
16 Defendants engaged and continue to engage in conduct which violates Health and Safety
17 Code section 25249.6, including the manufacture, distribution, promotion, and sale of
18 Cosmetic Tool Sets, so that a separate and distinct violation of Proposition 65 occurred
19 each and every time a person was exposed to DEHP by Cosmetic Tool Sets as mentioned
20 herein.

21 55. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
22 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
23 violations alleged herein will continue to occur into the future.

24 56. Based on the allegations herein, Defendants are liable for civil penalties of up to
25 \$2,500.00 per day per individual exposure to DEHP from Cosmetic Tool Sets, pursuant
26 to Health and Safety Code section 25249.7(b).

1 57. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
2 filing this Complaint.

3
4 **THIRD CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against GENERAL**
6 **DISCOUNT 1, GENERAL DISCOUNT, GENERAL DISCOUNT CORP,**
7 **GENERAL DISCOUNT 4, and DOES 21-30 for Violations of Proposition 65, The**
8 **Safe Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***
9 **25249.5, *et seq.*))**

10 **Bath Accessories II**

11 58. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
12 reference paragraphs 1 through 57 of this complaint as though fully set forth herein.

13 59. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
14 distributor, promoter, or retailer of Soap Dish with Plastic Suction Cup, including but not
15 limited to “Home Basics”; “Soap Dish w/suction”; “5.25’ X 4’ X 1.25’ (13.5 X 10 X 3
16 CM)”; “HDS Trading Corp, North Brunswick, NJ 08902”; www.hdstrading.com; “Made
17 in China”; “BC41362”; “UPC 8 86466 41362 8” (“Soap Dishes”).

18 60. Soap Dishes contain DEHP.

19 61. Defendants knew or should have known that DEHP has been identified by the State of
20 California as a chemical known to cause cancer and reproductive toxicity and therefore
21 was subject to Proposition 65 warning requirements. Defendants were also informed of
22 the presence of DEHP in Soap Dishes within Plaintiff’s notice of alleged violations
23 further discussed above at Paragraphs 25 and 30.

24 62. Plaintiff’s allegations regarding Soap Dishes concerns “[c]onsumer products
25 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
26 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
27 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*
28 *25602(b)*. Soap Dishes are consumer products, and, as mentioned herein, exposures to
DEHP took place as a result of such normal and foreseeable use.

1 63. Plaintiff is informed, believes, and thereon alleges that between February 4, 2016, and the
2 present, each of the Defendants knowingly and intentionally exposed California
3 consumers and users of Soap Dishes, which Defendants manufactured, distributed, or
4 sold as mentioned above, to DEHP, without first providing any type of clear and
5 reasonable warning of such to the exposed persons before the time of exposure.

6 Defendants have distributed and sold Soap Dishes in California. Defendants know and
7 intend that California consumers will use Soap Dishes, thereby exposing them to DEHP.
8 Defendants thereby violated Proposition 65.

9 64. The principal routes of exposure are through dermal contact and ingestion. Persons
10 sustain exposures by using, handling, or carrying Soap Dishes without wearing gloves or
11 by touching bare skin or mucous membranes with or without gloves after handling Soap
12 Dishes, as well as through direct and indirect hand to mouth contact, hand to mucous
13 membrane, trans-dermal absorption, or breathing in particulate matter emanating from the
14 Soap Dishes during use, as well as through environmental mediums that carry the DEHP
15 once contained within the Soap Dishes.

16 65. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
17 Proposition 65 as to Soap Dishes have been ongoing and continuous, as Defendants
18 engaged and continue to engage in conduct which violates Health and Safety Code
19 section 25249.6, including the manufacture, distribution, promotion, and sale of Soap
20 Dishes, so that a separate and distinct violation of Proposition 65 occurred each and every
21 time a person was exposed to DEHP by Soap Dishes as mentioned herein.

22 66. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
23 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
24 violations alleged herein will continue to occur into the future.

25 67. Based on the allegations herein, Defendants are liable for civil penalties of up to
26 \$2,500.00 per day per individual exposure to DEHP from Soap Dishes, pursuant to
27 Health and Safety Code section 25249.7(b).

1 68. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
2 filing this Complaint.

3
4 **FOURTH CAUSE OF ACTION**

5 **(By CONSUMER ADVOCACY GROUP, INC. and against GENERAL**
6 **DISCOUNT and DOES 31-40 for Violations of Proposition 65, The Safe Drinking**
7 **Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et***
8 ***seq.*))**

9 **Chairs**

10 69. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
11 reference paragraphs 1 through 68 of this Complaint as though fully set forth herein.

12 70. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
13 distributor, promoter, or retailer of Foldable Chair with Polymer Components, including
14 but not limited to “Black foldable chair;” “1806H black;” “MADE IN CHINA;” “6
15 00719 18060 6” (“Chairs”).

16 71. Chairs contain DEHP.

17 72. Defendants knew or should have known that DEHP has been identified by the State of
18 California as a chemical known to cause cancer and reproductive toxicity and therefore
19 was subject to Proposition 65 warning requirements. Defendants were also informed of
20 the presence of DEHP in Chairs within Plaintiff’s notice of alleged violations further
21 discussed above at Paragraph 26.

22 73. Plaintiff’s allegations regarding Chairs concerns “[c]onsumer products exposure[s],”
23 which “is an exposure that results from a person’s acquisition, purchase, storage,
24 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
25 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
26 Chairs are consumer products, and, as mentioned herein, exposures to DEHP took place
27 as a result of such normal and foreseeable use.

28 74. Plaintiff is informed, believes, and thereon alleges that between February 4, 2016 and the
present, each of the Defendants knowingly and intentionally exposed California

1 consumers and users of Chairs, which Defendants manufactured, distributed, or sold as
2 mentioned above, to DEHP, without first providing any type of clear and reasonable
3 warning of such to the exposed persons before the time of exposure. Defendants have
4 distributed and sold Chairs in California. Defendants know and intend that California
5 consumers will use Chairs, thereby exposing them to DEHP. Defendants thereby
6 violated Proposition 65.

7 75. The principal routes of exposure are through dermal contact and ingestion. Persons
8 sustain exposures by using, handling, or carrying Chairs without wearing gloves or by
9 touching bare skin or mucous membranes with or without gloves after handling Chairs, as
10 well as through direct and indirect hand to mouth contact, hand to mucous membrane,
11 trans-dermal absorption, or breathing in particulate matter emanating from the Chairs
12 during use, as well as through environmental mediums that carry the DEHP once
13 contained within the Chairs.

14 76. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
15 Proposition 65 as to Chairs have been ongoing and continuous, as Defendants engaged
16 and continue to engage in conduct which violates Health and Safety Code section
17 25249.6, including the manufacture, distribution, promotion, and sale of Chairs, so that a
18 separate and distinct violation of Proposition 65 occurred each and every time a person
19 was exposed to DEHP by Chairs as mentioned herein.

20 77. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
21 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
22 violations alleged herein will continue to occur into the future.

23 78. Based on the allegations herein, Defendants are liable for civil penalties of up to
24 \$2,500.00 per day per individual exposure to DEHP from Chairs, pursuant to Health and
25 Safety Code section 25249.7(b).

26 79. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
27 filing this Complaint.

1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against FINE and DOES 41-50**
3 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement**
4 **Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Women’s Sandals**

6 80. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 79 of this Complaint as though fully set forth herein.

8 81. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Women’s Sandals with Plastic Components, including
10 but not limited to Flat purple sandals with metallic heart design straps. “Bobee”; “Style
11 No.: Pamela-133”; “UPC 6845625341336”; “Made in China” (“Sandals”).

12 82. Sandals contain DBP.

13 83. Defendants knew or should have known that DBP has been identified by the State of
14 California as a chemical known to cause reproductive toxicity and therefore was subject
15 to Proposition 65 warning requirements. Defendants were also informed of the presence
16 of DBP in Sandals within Plaintiff’s notice of alleged violations further discussed above
17 at Paragraphs 27.

18 84. Plaintiff’s allegations regarding Sandals concerns “[c]onsumer products exposure[s],”
19 which “is an exposure that results from a person’s acquisition, purchase, storage,
20 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
21 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
22 Sandals are consumer products, and, as mentioned herein, exposures to DBP took place
23 as a result of such normal and foreseeable use.

24 85. Plaintiff is informed, believes, and thereon alleges that between March 21, 2016, and the
25 present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Sandals, which Defendants manufactured, distributed, or sold as
27 mentioned above, to DBP, without first providing any type of clear and reasonable
28 warning of such to the exposed persons before the time of exposure. Defendants have

1 distributed and sold Sandals in California. Defendants know and intend that California
2 consumers will use Sandals, thereby exposing them to DBP. Defendants thereby violated
3 Proposition 65.

4 86. The principal routes of exposure are through dermal contact and ingestion. Persons
5 sustain exposures by using, handling, or carrying Sandals without wearing gloves or by
6 touching bare skin or mucous membranes with or without gloves after handling Sandals,
7 as well as through direct and indirect hand to mouth contact, hand to mucous membrane,
8 trans-dermal absorption, or breathing in particulate matter emanating from the Sandals
9 during use, as well as through environmental mediums that carry the DBP once contained
10 within the Sandals.

11 87. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
12 Proposition 65 as to Sandals have been ongoing and continuous, as Defendants engaged
13 and continue to engage in conduct which violates Health and Safety Code section
14 25249.6, including the manufacture, distribution, promotion, and sale of Sandals, so that
15 a separate and distinct violation of Proposition 65 occurred each and every time a person
16 was exposed to DBP by Sandals as mentioned herein.

17 88. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
18 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
19 violations alleged herein will continue to occur into the future.

20 89. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to DBP from Sandals, pursuant to Health and
22 Safety Code section 25249.7(b).

23 90. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
24 filing this Complaint.

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26 //

1 **SIXTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against FINE, GENERAL**
3 **DISCOUNT 1, GENERAL DISCOUNT 4, and DOES 51-60 for Violations of**
4 **Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986**
5 **(Health & Safety Code, §§ 25249.5, et seq.))**

6 **Eyewear Cases**

7 91. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 90 of this Complaint as though fully set forth herein.

9 92. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Clear Vinyl Eyeglasses Case, including but not
11 limited to “Clear Plastic Eyeglasses Case. Case contains black reading eyeglasses, Made
12 in China with UPC “7 39042 00944 2”; “ +2.00” (“Eyeglasses Cases”).

13 93. Eyeglasses Cases contain DEHP.

14 94. Defendants knew or should have known that DEHP has been identified by the State of
15 California as a chemical known to cause cancer and reproductive toxicity and therefore
16 was subject to Proposition 65 warning requirements. Defendants were also informed of
17 the presence of DEHP in Eyeglasses Cases within Plaintiff’s notice of alleged violations
18 further discussed above at Paragraphs 28.

19 95. Plaintiff’s allegations regarding Eyeglasses Cases concerns “[c]onsumer products
20 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
21 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
22 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
23 25602(b). Eyeglasses Cases are consumer products, and, as mentioned herein, exposures
24 to DEHP took place as a result of such normal and foreseeable use.

25 96. Plaintiff is informed, believes, and thereon alleges that between April 11, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Eyeglasses Cases, which Defendants manufactured, distributed,
28 or sold as mentioned above, to DEHP, without first providing any type of clear and
reasonable warning of such to the exposed persons before the time of exposure.

1 Defendants have distributed and sold Eyeglasses Cases in California. Defendants know
2 and intend that California consumers will use Eyeglasses Cases, thereby exposing them
3 to DEHP. Defendants thereby violated Proposition 65.

4 97. The principal routes of exposure are through dermal contact and ingestion. Persons
5 sustain exposures by using, handling, or carrying Eyeglasses Cases without wearing
6 gloves or by touching bare skin or mucous membranes with or without gloves after
7 handling Eyeglasses Cases, as well as through direct and indirect hand to mouth contact,
8 hand to mucous membrane, trans-dermal absorption, or breathing in particulate matter
9 emanating from the Eyeglasses Cases during use, as well as through environmental
10 mediums that carry the DEHP once contained within the Eyeglasses Cases.

11 98. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
12 Proposition 65 as to Eyeglasses Cases have been ongoing and continuous, as Defendants
13 engaged and continue to engage in conduct which violates Health and Safety Code
14 section 25249.6, including the manufacture, distribution, promotion, and sale of
15 Eyeglasses Cases, so that a separate and distinct violation of Proposition 65 occurred
16 each and every time a person was exposed to DEHP by Eyeglasses Cases as mentioned
17 herein.

18 99. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
19 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
20 violations alleged herein will continue to occur into the future.

21 100. Based on the allegations herein, Defendants are liable for civil penalties of up to
22 \$2,500.00 per day per individual exposure to DEHP from Eyeglasses Cases, pursuant to
23 Health and Safety Code section 25249.7(b).

24 101. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
25 filing this Complaint.

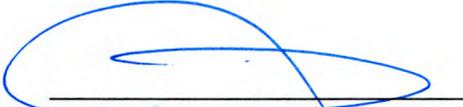
26 **PRAYER FOR RELIEF**

27 Plaintiff demands against each of the Defendants as follows:
28

1. A permanent injunction mandating Proposition 65-compliant warnings;
2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
3. Costs of suit;
4. Reasonable attorney fees and costs; and
5. Any further relief that the court may deem just and equitable.

Dated: Aug 13, 2019

YEROUSHALMI & YEROUSHALMI



Reuben Yeroushalmi
Attorneys for Plaintiff,
CONSUMER ADVOCACY GROUP, INC.